IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 45 OF 2005

IN

SUIT NO. 2605 OF 2004

M/s. Valiant Projects
Pvt. Ltd., .. Plaintiffs.

vs.

M/s. Mau-Aima Sahakari
Katai Mills Ltd., .. Defendants.

Mr. Ganesh Shetty for the plaintiffs.
Mrs. S.V. Shetty for defendants.

CORAM : S.U.KAMDAR, J.

DATE : 23rd January,2006.

P.C.

. The present suit is filed for recovery of the sum of Rs. 35,11,479/- comprising of the principal amount of Rs. 31,64,979/- and interest amount of Rs. 3,46,500/-. There is an agreement in writing by and between the parties dated 10.1.2001. The same is at Exhibit B. In accordance with the said agreement which is duly signed by and between the parties, the defendant has agreed to repay a sum of Rs. 41,60,700/- in instalments as mentioned

therein. The only defence raised in the present case is that this Court has no jurisdiction. However, perusal of para 20 as well as perusal of the agreement which is executed at Exhibit B, which inter alia stipulates that the Agreement is entered into at Mumbai and substantial cause of action has arose in Mumbai. I do not accept the contention of the defendant that this Court has no jurisdiction to entertain and try the present suit. Furthermore the plaintiffs have also obtained leave under Clause 12 of Letters Patent on 8.3.2004 and therefore this Court has jurisdiction to try the present suit.

2. The next contention raised is that all the assets of the defendant company are with the Receiver in Suit No. 2792 of 2000. That suit is filed by one Shri P.M.A. Hakeem & Ors. vs. U.P. Co-op. Spinning Mills Federation & Anr. In the light of the fact that it is a totally different suit, it is not relevant that the receiver has been appointed in some other suit. In the aforesaid circumstances, I am of the opinion that the defendants have no substantive defence which requires trial. However, with a view to give an opportunity to the defendant to contest the suit, I direct the defendant to deposit Rs. 30 lacs within a period of four weeks from today failing which the plaintiff will be entitled to a decree. The amount if so deposited, the Prothonotary and Senior Master

is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court. Summons for judgment disposed of accordingly.

3. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.